

Sixth Appellate District

San Jose, California

MONDAY, JANUARY 28, 2008

H030933 KELLY & ASSOCIATES et al. v. KOULABOUTH

The judgment is affirmed. (not published)
(Mihara, Acting P.J.; We concur: McAdams, J., Duffy, J.)
Filed January 28, 2008

H031749 PEOPLE v. WHITE

By the Court:

On the court's own motion, the submission order in the above-entitled matter dated December 13, 2007, is hereby vacated. The court by separate letter issued January 28, 2008, has requested supplemental briefing from the parties. The cause will be resubmitted upon completion of supplemental briefing.
Dated: January 28, 2008 Bamattre-Manoukian, Acting P.J.

TUESDAY, JANUARY 29, 2008

The following cases are submitted this date:

H031580 HAQUE v. FRY'S ELECTRONICS, INC.

H030028 FORTE v. ALBOV, et al.

H030836 PEOPLE v. JUAREZ

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed January 29, 2008

H031569 PEOPLE v. REDMOND

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed January 29, 2008

H031771 PEOPLE v. GARCIA

The judgment is modified to strike the finding that defendant used a vehicle in the commission of a felony. As so modified, the judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed January 29, 2008

H030337 PEOPLE v. BAUTISTA

The judgment is reversed and the matter is remanded for proceedings consistent with this opinion. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed January 29, 2008

Sixth Appellate District

San Jose, California

Tuesday, January 29, 2008 (continued)

H031296 PEOPLE v. GARCIA

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy,
J.)

Filed January 29, 2008

H030574 PEOPLE v. KNIGHT

The order of probation is modified as to count 3 to show a conviction for the misdemeanor offense of exhibiting a firearm in violation of Penal Code section 417, subdivision (a)(2)(B), rather than the felony offense of exhibiting a firearm in violation of Penal Code section 417, subdivision (b). The modified order is affirmed. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed January 29, 2008

WEDNESDAY, JANUARY 30, 2008

H031302 PEOPLE v. ERYK M.

The juvenile court's order is affirmed. (not published)
(McAdams, J.; I concur: Mihara, Acting P.J.; I concur in the judgment only: Duffy, J.)

Filed January 30, 2008

H030481 PEOPLE v. CRUM, JR.

The judgment of conviction is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)

Filed January 30, 2008

Sixth Appellate District

San Jose, California

Wednesday, January 30, 2008 (continued)

H032068 CAMPBELL v. SUPERIOR COURT OF SANTA CLARA COUNTY; THE PEOPLE

Let a peremptory writ of mandate issue directing the superior court to vacate its August 17, 2007 order and its November 1, 2007 order, and to reopen the mental retardation hearing. At the reopened hearing, the court shall determine whether false testimony was presented at the original hearing. If it determines that false testimony was presented, it shall strike that testimony and shall allow both parties to present additional evidence to support their positions regarding whether defendant is mentally retarded. In addition, the court may make "orders reasonably necessary to ensure the production of evidence sufficient to determine whether or not the defendant is mentally retarded, including, but not limited to, the appointment of, and examination of the defendant by, qualified experts." (§ 1376, subd. (b)(2).) The court shall thereafter file a new order on "only the question of the defendant's mental retardation" (*ibid.*) that does not consider any false testimony, but does consider all other evidence presented at the original and the reopened hearings. The temporary stay order is vacated. This opinion is made final as to this court seven days from the date of filing. (Cal. Rules of Court, rule 8.264(b)(3).) (published)(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)
Filed January 30, 2008

THURSDAY, JANUARY 31, 2008

H030957 PEOPLE v. LUNA

By the Court:

On the court's own motion, the submission order in the above-entitled matter dated November 6, 2007, is hereby vacated. The court by separate letter issued January 30, 2008, has requested supplemental briefing from the parties. The cause will be resubmitted upon completion of supplemental briefing.

Dated: January 31, 2008 Rushing, P.J.

H030028 FORTE v. ALBOV, et al.

By the Court:

On the court's own motion, the submission order in the above-entitled matter dated January 29, 2008, is hereby vacated. The court grants permission to file the late request for oral argument. The cause will be resubmitted at oral argument scheduled at a date and time to be determined.

Dated: January 31, 2008 Rushing, P.J.

Sixth Appellate District

San Jose, California

Thursday, January 31, 2008 (continued)

H031676 PEOPLE v. SCHULZ

The judgment is affirmed. (not published)
(Mihara, Acting P.J.; We concur: McAdams, J., Duffy, J.)
Filed January 31, 2008

The following case is submitted this date:

H031794 In re ALICE M.; MONTEREY COUNTY DSES v. TAMMY L.

H029406 CALIFORNIA HIGHWAY PATROL v. SUPERIOR COURT OF SANTA CRUZ; QUIGLEY

By the Court*:

Real Party in Interest's petition for rehearing is denied.
Filed: January 31, 2008

*Before Rushing, P.J., Premo, J. and Elia, J.

H029860 PEOPLE v. MCDANIEL

The judgment is reversed. (published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed January 31, 2008

H031013 MCKEE v. FORTE

The order denying Forte's anti-SLAPP motion is affirmed.
McKee is entitled to his costs on appeal. (not published)
(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)
Filed January 31, 2008

H030245 PEOPLE v. LEFIEF

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed January 31, 2008

H030748 LIGHTHOUSE WORLDWIDE SOLUTIONS, INC. v. GIANDOMENICO et al.

The order is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)
Filed January 31, 2008

H031491 PEOPLE v. SIMMONS

The commitment order is affirmed. (not published)
(Duffy, J.; We concur: Mihara, Acting P.J., McAdams, J.)
Filed January 31, 2008

Sixth Appellate District

San Jose, California

FRIDAY, FEBRUARY 1, 2008

H030970 PEOPLE v. ALVAREZ

We direct modification of the abstract of judgment to reflect that the offense charged in count 2 is a violation of Penal Code section 261, subdivision (a)(2). In all other respects, the judgment is affirmed. (not published)
(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed February 1, 2008

H031339 COUNTY OF SANTA CRUZ v. SMITH

The order is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)

Filed February 1, 2008